HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. No. 571 (M/S) 2004

Rajendra Prasad Uniyal (Revisionist)

Versus

Motor accident claims

Tribunal Tehri Garhwal & others (Respondents)

Approved for reporting.

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Not approved for reporting

Date 11.8.2004.

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 571 of 2004 (MS)

Rajendra Prasad Uniyal ..... Revisionist

Vs

Motor accident Claims Tribunal, Tehri Garhwal & another ...Respondents

Sri I.P; Gariola, Advocate for the revisionist
Standing Counsel for the respondents.

Dated: 11.8.2004

Hon'ble Rajesh Tandon, J.

Heard the learned counsel for the parties at length.

By the present writ petition the petitioner has prayed for a writ of certiorari quashing the order dated 29.10.04 and 7.4.2002.

Briefly stated the petitioner has field a Claim Petition under Section 166 of M.V.Act, for grant of compensation. The claim petition was registered as Claim Petition No. 31 of 1999, Rajendra Prasad and another vs. Khem Singh and another, which was dismissed in default on 29.10.2001. The petitioner has filed the application for restoration of the claim petition on 5.12.2001. The Claims Tribunal has held that the application for restoration is barred by time and rejected the same, against which the present writ petition has been filed.

The case was fixed of final hearing on 29.10.2001 before the Claims Tribunal and it was dismissed for non-prosecution. The petitioner has contended that he came to know about the order on 29.11.2001 and there being delay of 6 days in filing the restoration application, the same is liabel to be condoned.

The need of society is that there should be justice oriented approach and the application for restoration should not be rejected only on the ground of technicalities. The Apex Court has held in (2001) 8 SCC 151, M.S. Grewal vs. Deep Chand Sood as under:

"Law Courts will lose their efficicacy if they cannot possible respond to the need of the society-technicalities there might be many but the justice-oriented approach ought not to be thwarted on the basis of such technicality since technicality cannot and ought not to outweigh the course of justice."

In view of the above observation, the writ petition is allowed. The Motor Accident Claims Tribunal, Tehri Garhwal is directed to restore the claim petition no. 31 of 1999 on its original number and to decide the same within three months after the receipt of the certified copy of this order.

No order as to cost.

(Rajesh Tandon J.)

11.8.04
*Dhyani